

UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
WILKESBORO DIVISION

IN RE:	)	Case No. 05-50094
JAMES MATTHEW WAGONER	)	Chapter <u>7</u>
LONIE MARIE TAYLOR WAGONER	)	
	)	MOTION TO AVOID NON-PURCHASE
SSN: xxx-xx-7910	)	MONEY LIEN ON PERSONAL
SSN: xxx-xx-6891	)	PROPERTY PURSUANT TO 11 U.S.C.
	)	522 AND FRBP RULE 4003(d)
Debtor	)	

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NOW COMES the Debtor in the above-captioned proceeding pursuant to 11 U.S.C. 522(f) and Rule 4003(d) of the Federal Rules of Bankruptcy Procedures through counsel who moves the Court to avoid the non-possessory, non-purchase money lien of **WELLS FARGO FINANCIAL** (hereinafter referred to as "the Creditor") on the personal property described herein in which the Debtor has an interest, and says as follows:

1. This case was commenced by the filing of a voluntary petition for relief under the Bankruptcy Code, Title 11 of the United States Code.

2. The Debtor address is P O Box 271, Hays, NC 28635 (1231 Shumate Mountain Road).

3. The Creditor address is 4137 121<sup>st</sup> Street, Urbandale, IA 50323.

4. The creditor obtained a non-possessory, non-purchase money security interest in property in which the Debtor has an interest and which consists of one or more of the items of personal property that are specified in 11 U.S.C. 522(f) (2) (A)-(C).

5. The personal property to which the lien applies is more specifically described as Household Goods.

6. The value of the Debtor interest in this personal property at time of Chapter 13 filing was \$2,220.00.

7. The personal property which this lien encumbers is property which the Debtor is entitled to exempt under 11 U.S.C. 522(b) and N.C.G.S. 1C-1601(a)(4), and the amount of this exemption is \$3,000.00.

8. The existence of this lien impairs this exemption to which the Debtor is entitled under 11 U.S.C. 522 (b).

WHEREFORE, the Debtor respectfully prays that the Court issue an Order compelling the Creditor to cancel and avoid the lien upon the personal property described herein, and for such other and further relief as to the Court may seem just and proper.

THIS the 22<sup>nd</sup> day of February, 2005.

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James B. Mallory III  
Bar No. 12479  
Attorney for Debtor

OF COUNSEL:

JAMES B. MALLORY III  
ATTORNEY AT LAW  
P O BOX 7  
STATESVILLE, NORTH CAROLINA 28687

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
WILKESBORO DIVISION

IN RE:	)	CASE NO: 05-50094
	)	Chapter: 7
JAMES MATTHEW WAGONER	)	
LONIE M. TAYLOR WAGONER	)	NOTICE OF OPPORTUNITY
	)	FOR HEARING
	)	(No-Protest Notice: No
	)	Hearing Will Be Held
Debtor	)	Unless Request For
	)	Hearing Is Filed)

**TAKE NOTICE** that JAMES & LONIE WAGONER have filed papers with the Court to **Avoid a Lien on Household Goods**. A copy of these paper(s) are included with this Notice.

**Your rights may be affected.** You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not want the Court to order a **Motion to Avoid a Lien on Household goods**, or if you want the Court to consider your views on the motion, then on or before fifteen (15) days from the date of this Notice, (March 9, 2005) you or your attorney must do three (3) things:

**File with the Court a written response requesting that the Court hold a hearing and explaining your position. File response at U.S. Bankruptcy Court, Western District of North Carolina, P O Box 34189, Charlotte, NC 28234-4189.**

If you mail your request to the Court for filing, you must mail it early enough so the Court will **receive** it on or before the date stated above.

**On or before the date stated above for written responses, you must also mail or fax a copy of your written request to:**

James B. Mallory III  
P O Box 7  
Statesville, NC 28687  
Fax # 704-872-5776

US Bankruptcy Administrator  
Western District of NC  
402 West Trade Street, Suite 200  
Charlotte NC 28202-1669  
Fax # 704-344-6666

**Attend the hearing scheduled for March 10, 2005, at 1:00 p.m.** in Room 201 of the Johnson J. Hayes Federal Building, 207 W. Main Street, Wilkesboro, North Carolina.

If you or your attorney do not take these steps, **A HEARING WILL NOT BE HELD**, and the Court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief.

Date: 2/22/05

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James B. Mallory III  
Attorney at Law  
P O Box 7  
Statesville, NC 28687  
Phone: 704-872-1911  
State Bar # 12479

CERTIFICATE OF SERVICE

I, James B. Mallory III, do hereby certify that I served a copy of the foregoing MOTION TO AVOID LIEN ON HOUSEHOLD GOODS on the following persons by depositing a copy of the same with the United States Postal Service, postage prepaid or by hand delivery to the business office.

U S Bankruptcy Administrator  
Western District of North Carolina  
402 West Trade Street  
Suite 200  
Charlotte NC 28202-1669  
FAX: 704-344-6666

James Ward, Trustee  
P O Box 240  
Clover, SC 29710

WellsFargo Financial  
4137 121<sup>st</sup> St.  
Urbandale, IA 50323

This the 22nd of February, 2005.

JAMES B. MALLORY III

By: \_\_\_\_\_

James B. Mallory III  
Attorney at Law  
P O Box 7  
Statesville NC 28687  
(704) 872-1911